

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

THE DEPARTMENT OF REVENUE) DOCKET NO.: PT-2003-21
OF THE STATE OF MONTANA,)
)
Appellants,) FACTUAL BACKGROUND,
) CONCLUSIONS OF LAW,
-vs-) ORDER and OPPORTUNITY
) FOR JUDICIAL REVIEW
VALUENT D. & SHIRLEY A.)
THOMPSON)
)
Respondent.)

The above-entitled appeal was heard on August 11, 2004, in Missoula, Montana, in accordance with an order of the State Tax Appeal Board of the State of Montana (Board). The notice of the hearing was duly given as required by law. The Department of Revenue (DOR), represented by Appraiser Larry Barrett and Regional Manager Jim Fairbanks, presented testimony in support of the appeal. Taxpayer, Valuent Thompson and taxpayer representative Lee Goeres (Taxpayers), presented evidence and testimony in opposition to the appeal.

The duty of this Board is to determine the appropriate market value for the property based on a preponderance of the evidence. Testimony was taken from both the Department

of Revenue and the Taxpayer, and exhibits from both parties were received.

The Board reverses the decision of the Missoula County Tax Appeal Board and reinstates the DOR determination of value.

FACTUAL BACKGROUND

1. Due, proper, and sufficient notice was given of this matter, the hearing hereon, and of the time and place of the hearing. All parties were afforded opportunity to present evidence, oral and documentary.
2. The subject property is residential in character and described as follows:

Lot 3, Lamoreaux Estates, City of Missoula, Missoula County, State of Montana. Street Address of 3157 Lamoreaux Lane, (Assessor ID #: 0003418805).

3. For tax year 2003, the Department of Revenue appraised the subject property at \$58,515 for the land and \$114,440 for the improvements.
4. The taxpayer filed an appeal with the Missoula County Tax Appeal Board on August 8, 2003, requesting a land value of \$40,000 and an improvement value of \$90,000.

5. In its November 17, 2003 decision, the county board reduced the value of the property to \$138,000 (Land - \$48,000, Improvements - \$90,000)
6. The DOR then appealed that decision to this Board on December 4, 2003, citing the following reason for appeal:

The nature of the proof adduced at the hearing was insufficient from a factual and legal standpoint, to support the Boards decision.

DOR'S CONTENTIONS

It is the DOR's opinion that the county board determined the subject property, consisting of 1.117; acres should be valued consistent with a 1/3 and 1/2 acre parcel. The DOR presented Exhibit A, which illustrates eighty-one land sales. Sixty-one of the sales were less than 1/2 acre in size, and twenty are 1/2 acre or greater. The DOR testified that the sales are all located within one mile to the subject. Summarized, the averages illustrated on the exhibit are:

Size	Average Price	Average Size (acres)	Size	Average Price	Average Size (acres)
1/2 acre or less	\$45,849	.38	1/2 acre or greater	\$75,995	1.06

The subject improvement is identified on Exhibit B, the property record card (PRC), as a triple wide mobile home. The home has been developed on a permanent foundation with a

basement.

The DOR testified that the taxpayer purchased the land 1997 for \$40,000. The DOR testified to the values for the prior and current cycle:

	Prior Appraisal Cycle (1997 - 2002)	Current Appraisal Cycle (2003 - 2008)
Land Value	\$40,878	\$58,351
<u>Improvement Value</u>	<u>\$107,510</u>	<u>\$114,440</u>
Total Value	\$148,388	\$172,791

The DOR testified that the residence has 2,224 square feet of living space on the main floor and 2,224 square feet of area in the basement. There is a small-detached garage that is in very poor condition and the DOR has assigned no value to this structure.

TAXPAYER'S CONTENTIONS

The taxpayer contends that the value placed on the property by the Missoula County Tax Appeal Board is an accurate reflection of the market value and should be upheld.

The subject lot is impacted by a drainage easement that is deemed to be unbuildable as identified on Exhibit #1. This area is more of a water collection area during times of heavy moisture. Regardless that the lot consists of 48,659 SF, it better reflects an adjacent lot's size and value when taking into account the easement.

BOARD'S DISCUSSION

This Board does not dispute that the drainage easement that influences the southerly portion of the subject property could impact the market value. This drainage easement existed in 1997 when the taxpayer paid \$40,000 for the subject lot. At that time, the DOR was assessing the lot at a value of \$40,878. The question that must be answered by this Board is; has the value of the lot increased 43% in five years time? (1997 - \$40,878 to 2002 - \$58,351) The sales presented by the DOR on Exhibit A along with the value established by the DOR illustrate the following:

Exhibit A		
Lots 1/2 Acre or Less:		
Average Sale Price	Average Lot Size (SF)	Average Price Per Square Foot
\$45,849	16,553 SF	\$2.77 SF
Lots 1/2 Acre or Greater:		
Average Sale Price	Average Lot Size (SF)	Average Price Per Square Foot
\$75,995	46,173 SF	\$1.65 SF
Property Record Card (Exhibit B)		
DOR Value	Lot Size (SF)	DOR Value Per Square Foot
\$58,351	48,657	\$1.20

The Board notes that averaging may not be the best method in determining the accuracy of an appraised value, but with the large number of sales contained on Exhibit A, it helps to mitigate any extreme outliers. The DOR testified that no reduction was made to the subject property's land value for the presence of the drainage

easement. When comparing the data from the sales on Exhibits A and B, the DOR is valuing the subject significantly less on a price per square foot basis.

The taxpayer suggested that the modular could be replaced today at a cost of approximately \$80,000. Additional costs would be incurred for the foundation and any finishing to the basement area, i.e. partitions, electrical, plumbing, etc. The record is silent to any supporting market data.

It was testified that an independent fee appraisal was conducted on the subject property in February 2003, which rendered a value of \$185,000. This Board was not presented a copy of the independent appraisal report, but this clearly suggests a value for the subject property.

The evidence before this Board suggests that the DOR adequately valued the taxpayer's property.

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CONCLUSIONS OF LAW

1. The State Tax Appeal Board has jurisdiction over this matter. §15-2-301, MCA.
2. §15-8-111 MCA. Assessment - market value standard - exceptions. (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.
3. The appeal of the DOR is hereby granted and the decision of the Missoula County Tax Appeal Board is reversed.

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ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be entered on the tax rolls of Missoula County by the local Department of Revenue office at the land value of \$58,351 for the land and \$114,440 for the improvements. The decision of the Missoula County Tax Appeal Board is reversed.

Dated this 28th day of September, 2004.

BY ORDER OF THE
STATE TAX APPEAL BOARD

(S E A L)

GREGORY A. THORNQUIST, Chairman

JERE ANN NELSON, Member

JOE R. ROBERTS, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 28th day of September, 2004, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

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Dale Jackson
Chairman
Missoula County Tax Appeal Board
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DONNA EUBANK
Paralegal